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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,477	11/05/2003	Eli Margalit	MARGALIT=8B	7750
1444	7590	12/28/2004	EXAMINER	
BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303			KAUFMAN, JOSEPH A	
			ART UNIT	PAPER NUMBER
			3754	

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/700,477	Applicant(s) MARGALIT, ELI	
	Examiner Joseph A. Kaufman	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-15, 17 and 18 is/are rejected.
- 7) ☒ Claim(s) 7 and 16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/5/03</u> . | 6) <input type="checkbox"/> Other: ____ |

Specification

1. The abstract of the disclosure is objected to because of the legal term "said" on lines 9 and 15. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

2. Claims 3-6 and 12-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3 and 12 positively recited many of the structures from claims 2 and 11 respectively. It is unclear if they should depend from a different claim or not.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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4. Claims 1, 8 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Marmsater.

In column 3, lines 20-24, Marmsater discusses weighing the hopper, dispensing plural portions, and weighing the hopper again. The differences are calculated as noted in column 3, lines 37-41, giving a loss in weight reading. The weights are averaged by dividing by the number of portions (weights) dispensed as noted in column 4, lines 52-55. The hopper has a lower part 19, upper part 15; fill opening from 11; the step of controlling the delivery of material to the hopper is discussed in column 5, lines 5-12; parallel sidewalls are seen in Figure 1; operating and controlling the feeder is discussed in column 7, lines 46-49; and operating the screw feeder 17 is noted in column 2, lines 7-13.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-6, 10-15, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marmsater.

Marmsater has been discussed above, but lacks the fill opening being horizontally offset from the upper boundary, the lower part being funnel shaped, and the fed portion being smaller than the sensitivity of the weighing device. It would have been obvious to one of ordinary skill in the art to provide the opening in a horizontally offset

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position from the upper boundary as the spacing of the various parts would depend on the permissible size of the device and ease of transfer of material. A funnel shaped portion is shown in storage bin 11; therefore, it would have been obvious to one of ordinary skill in the art to provide a funnel shaped part on the hopper in order to better regulate the flow of material to the feeder as taught by another structure in the reference. Finally, the amount of material dispensed per portion would have been obvious dependent on the required speed of the device/dispensing and the error rate setpoint.

Allowable Subject Matter

7. Claims 7 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The hopper being in the container, in combination with the other claimed elements, is not shown in the prior art.

Conclusion

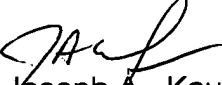
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Aalto et al., Ricciardi et al. '111 and Pollock show other weighing hoppers for feeding material.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph A. Kaufman whose telephone number is (571) 272-4928. The examiner can normally be reached on Monday-Thursday, 5:30AM-2PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Joseph A. Kaufman
Primary Examiner
Art Unit 3754
12/22/04

jak
December 22, 2004